



**Medical Quality Assurance Commission
April 11, 2008
Business Meeting Minutes**

Medical Commission Members

Richard Brantner, MD
Athalia Clower, PA-C
Frederick Dore, MD
William Gotthold, MD
Ellen Harder, PA-C
Frank Hensley, Public Member
Judith Page, Public Member
Linda Ruiz, Public Member
Anjan Sen, MD- Absent
Judy Tobin, Public Member

Les Burger, MD – 2nd Vice-Chair
Bruce Cullen, MD
Theresa Elders, Public Member
Thomas Green, MD
Susan Harvey, MD
Hampton Irwin, MD
Anthony Robins, MD – Absent
Samuel Selinger, MD – 1st Vice-Chair
Cabell Tennis, Public Member – Chair

Department of Health Staff

Blake Maresh, Executive Director
Maryella Jansen, Deputy Executive Director
Beverly Teeter, Program Manager
George Heye, MD, Medical Consultant
Erin Obenland, Disciplinary Manager
Jim McLaughlin, Staff Attorney

Joe Mihelich, Program Representative
Dani Newman, Compliance Officer
Barbara Torske, Disciplinary Assistant
Cindy Hamilton, Compliance Officer
Mike Farrell, Staff Attorney
Mike Weisman, Staff Attorney

Others in Attendance

Karen Jensen, Assistant Secretary
Melissa Burke-Cain, AAG

John Iverson, WSMA Director

BUSINESS MEETING
CALL TO ORDER

Commission Chair Cabell Tennis, JD called the meeting of Washington State Medical Quality Assurance Commission to order at 8:02 a.m. on April 11, 2008, at the Doubletree Hotel Seattle Airport at 18740 International Boulevard, Seattle, WA.

1.0

REPORT OF THE CHAIR

The Chair reported that the Governor signed 4SHB1103 that allows the Commission to be in a pilot project that establishes a significant new

authority and a clearer interdependent relationship with the Department of Health. He stated there is an ongoing process to work out provisions in the bill.

The Chair stated one of the provisions allows the Commission to select a new Executive Director to be employed by the Secretary of Health. He stated the Executive Director will have the authority to select and or hire staff under the state employment regulations and assist the Commission in developing a budget that will go through the Secretary of Health without alterations to the Office of Financial Management for consideration.

The Chair stated the Commission and the Department will be negotiating on a new joint operating agreement. He stated the Executive Committee has selected staff members Beverly Teeter, George Heye, Jim Smith, Maryella Jansen, Mike Farrell and Blake Maresh to work on the transition team. He stated the transition team will help to develop specific plans for the transition to the pilot project.

The Chair reported Karen Jensen, Acting Assistant Secretary has developed a response to the Dental and Chiropractic Commission questions about the pilot projects that is very helpful. He indicated that a copy of this document has been distributed.

The Chair reported that he and the Executive Committee has been working with Katherine Deuel, Office of Human Resources on the job description to establish the Exempt Executive Director position. He indicated that this packet of information must go to the State Committee on Agencies Official's Salaries in the Department of Personnel to create the position and determine the salary range. This committee meets annually and has jurisdiction over exempt positions. He also stated he is working with her to design and execute a recruitment plan. The Chair stated that he requested a Commission member participate in the application screening process; as well as in the selection of the final candidates.

The Chair reported the April 28, 2008 meeting with the Governor's staff will include representatives from the Department of Health, Washington State Medical Association and the Executive Leadership. The purpose of this meeting is to provide the Commission and the Department with the Governor's direction and clarity on implementation of the pilot project.

The Chair reported the newest draft of the guidelines regarding practice below the standard of care from the Sanction Guideline Committee was distributed to the panels for review and to provide feedback. He recommended that the newest draft be shared with other boards and commissions as soon as possible.

MOTION

The Chair entertained a motion to approve the draft revisions to the sanctioning guidelines and authorize to begin sharing with other boards and commissions. The motion was seconded and approved.

The Chair stated the bylaws call for an election in July with the transfer of authority and responsibility at that time. He reported the by-laws require a previous member of a nominating committee must be part of this year's committee. He reported he had asked Judy Page to lead this year's nomination committee.

MOTION

The Chair made a motion to appoint Judy Page, Public Member, Rick Dore, MD, and Athalia Clower, PA-C to the nomination committee. The motion was seconded and approved.

2.0

CONSENT AGENDA

The consent agenda contained the following items for approval:

- 2.1** Agenda for April 11, 2008
- 2.2** Minutes from the February 29, 2008, business meeting
- 2.3** Ratification of Physician, Limited Physician and Physician Assistants issued licenses between February 29, 2008 – April 10, 2008

3.0

COMMITTEE REPORTS

PUBLIC POLICY COMMITTEE

3.1 Proposed Compliance Policy Revisions—MD2003-02

The Policy Committee recommended approval of the draft language with edits of the Compliance Policy. The Policy will be reviewed by Department of Health before its adoption scheduled for the May meeting

MOTION

The Chair entertained a motion to approve the draft language with edits for review by the Department and to be brought back for adoption at the May meeting. The motion was seconded and approved.

3.2 Use of Templates for Case Reviews

The Policy Committee reported on their recommendations and process for reviewing commission members using the electronic templates when recommending closure of cases.

Melissa Burke-Cain, AAG reported on her concerns with the security issues on transmitting case information electronically. In order to maintain the integrity of the process she recommended the following:

- Staff needs to maintain a file of those cases transmitted to the panels.

- Recommended each member do their own redaction of any identifiable information, if possible.
- All reviewing commission members using the electronic case closures should send them to Ms. Teeter who will ensure the redaction is correct and forward to the appropriate panels. Ms. Teeter agreed to members sending her the case when they are completed, rather than transmitting them all at once.

MOTION

The Chair entertained a motion to approve the use of the electronic template for case closure recommendation and to email files to Ms. Teeter for distribution. The motion was seconded and approved.

3.2 Investigative File Format and Content

This item was deferred.

3.3 Proposed Policy Revisions to “Treating Partners of Patients with Sexually Transmitted Chlamydia and Gonorrhea” MD2008-03

The Policy Committee recommended accepting the proposed language revision to the policy on treating partners of patients with sexually transmitted chlamydia and gonorrhea. Ms. Teeter reported the Board of Pharmacy reviewed the proposed policy at their March meeting and agreed to the proposed language. She indicated that the policy will be reviewed by the Department and brought back at the May meeting for adoption.

MOTION

The Chair entertained a motion to approve the language for the policy and to be brought back for adoption at the May meeting. The motion was seconded and approved.

3.4 Non-Surgical Medical Cosmetic Procedures Draft Rules Update

Samuel Selinger, MD, reported on the changes to the latest draft on Non-Surgical Medical Cosmetic Procedures. Dr. Selinger reported on the changes to narrow the definition and scope to two types of procedures to injections and prescription device. He also indicated the language allows physician and physician assistants to delegate procedure to license health care profession. The persons who they are delegating to must be in compliance to their profession scope of practice. He indicated physician assistants will be allowed to do these procedures at a remote site. He also reported working with the Washington State Medical Association for their thoughts on the use of off label injections by non-physicians.

3.5 Office-Based Surgery Rules Update

Hampton Irwin, MD, reported the committee is still working on the office-based surgery rules update. He reported on the discussion has been around board certification or hospital privileges. Dr. Irwin reported the goal is to know if these physicians are properly trained.

4.0 REPORTS

4.1 Finance

Dr. Burger reported that the committee did not meet. The agenda item deferred.

4.2 Joint Operating Agreement –

Frank Hensley, Public Member, reported on the Joint Operating Agreement Committee's outline of subjects to consider for the operating agreement. He asked for input from other members to consider. Mr. Hensley mentioned that there should be an interim operating agreement, while working on the final operating agreement. Melissa Burke-Cain, AAG stated that 1103 provides the joint operating agreement can be modified yearly by either Department of Health or the Commission.

4.3 Investigative Task Group

Dr. Burger reported that the group did not meet. The agenda item was deferred.

4.4 Physician Assistant Advisory Committee

Ellen Harder, PA-C reported the PA committee has been working on improving the current practice plans and remote site documents. She indicated that the revised practice plans and remote site documents will provide the Commission with more information on the practice to make more informed decisions.

4.5 Sanction Guidelines

Defer to 5.2

4.6 UW Medical School Credentialing Meeting

Ms. Teeter reported working with Amity Nuemeister and Gabrielle Nathanson-Pett, University of Washington School of Medicine credentialing staff and Ms. Burke-Cain on improving the resident physician's applications and the improve renewal forms and process

5.0 OTHER BUSINESS

5.1 Discussion Regarding the Fourth Substitute House Bill 1103 and the Effects to the Medical Quality Assurance Commission

Karen Jensen, Acting Assistant Secretary highlighted 4SHB1103 regarding the provisions effects to the Commission:

- Authorizes national fingerprint-based criminal background check on all out-of-state applicants. In addition, the legislation

recognized Department of Health as a criminal justice agency in order to be authorized those back-ground checks.

- Authorizes citations and fines for respondent's failure to produce records. Fines are up to \$100 a day up to a \$5,000 ceiling.
- New requirements to the mandatory reporting rules that were just passed at the end of March.
- Allows for a Show Cause Hearings within 20 days of service of a summary action.
- Requires development and use of a sanctioning schedule.
- Prohibits delegation of final decision by the Commission to a Health Law Judge on cases involving standard of care or requiring clinical expertise.
- Authorizes the Commission to write annual reports to submit the legislature.
- Authorizes the Commission to permanently revoke an applicant or license professional that cannot be rehabilitated.
- Permits Commission members to express their professional opinions to elected officials about the work of the commission; limited to informing the elected official rather than lobbying in support or opposition of any institutive to the legislature.
- Mandates a five-year pilot projects for Medical and Nursing Commissions

5.2 Modification of Sanctioning Guidelines

The Commission discussed the report on the data collected from disciplinary orders since 2006. The Commission had concerns about data reflected before they had adopted the Sanction Guidelines. Ms. Tobin reported the Sanctions committee discussion on the final orders, agreed orders and STIDs collected since the adoption of the policy. She indicated her review of the orders and the great improvement of how the orders have been written and most cases are within the guidelines.

6.0 MEMBERS REPORTS

Ellen Harder, PA-C recommended the book called, *Blind Eye* by James Stewart. She stated this book is a true story of a resident physician accused of killing patients. She considers the story demonstrates how other physicians, professors, and boards handled complaints and turn a blind eye. She stated that she ordered six books to circulate among the members.

7.0 STAFF MEMBERS REPORTS

7.1 Executive Director

Blake Maresh reported on the Chiropractic Commission decision not to take part in the pilot project. The voted against 9-4.

Mr. Maresh mentioned he is on a workgroup that is working on unintentional Opioid deaths in the state. Mr. Maresh asked if anyone from

the commission would like to participate at the June 9, 2008 workshop. Dr. Burger and Dr. Sen would be available for this workshop. He also reported Jennifer Sabel, DOH will be giving a lunchtime presentation on this subject in the near future. .

Mr. Maresh reported on fee increases for physicians and physician assistant and other professions approved by the legislature at this last session. The new fees increase is \$125 for MD's and \$50 for PA's per renewal and \$125 per application to be in effect by July 1, 2008. He also reported on the University of Washington Library access of \$25 per year will be included.

Mr. Maresh stated that the increases were concerned as "per charge" not per year, which many other professions received because their renewal is annually. The Commission to begin rule writing to change the renewal fees to an annual fee and potentially requesting legislation to increase fees to ensure the Commission has the revenue needed to meet the expenditures of the pilot project and the decision packages put forth to the legislature.

MOTION

The Chair entertained a motion to begin a rule process to change the renewal cycle from two-year cycle to a yearly renewal. The motion was seconded and approved.

7.2 Deputy Executive Director

Ms. Jansen reported on HB2475 that authorizes physician assistants to now delegate to a health care assistants.

7.3 Assistant Attorney General

Melissa Burke-Cain, AAG reported on the Open Public Meeting Act regarding potential violations through the use of emails. She indicated that committees or task group members discussing what should happen or coming up with recommendations for the full commission is fine. She also indicated that documentation sent to members is allowed as long as members do not discuss the contents openly through email. She stated if members have comments about the document to send them back to Ms. Teeter and she will forward to the appropriate committees.

7.4 Program Manager

Ms. Teeter requested that the August 2009 workshop be changed to August 20-22 to get the Davenport Hotel for the 2009 workshop.

7.5 Disciplinary Manager

Erin Obenland, Disciplinary Manager stated the format of the Compliance packets would be changing do to the new system. She reported that she would be sending an email out to the commission asking them to be on a

hearing panel for the next meeting. She stated there are three hearings that could take place next month.

7.6 Medical Consultant
No report

8.0 ADJOURNMENT
The meeting adjourned at 10:40 a.m.

Submitted by

Joe Mihelich, Office Assistant III

Cabell Tennis, JD, Chair
Medical Quality Assurance Commission
Approved May 23, 2008